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## AFRICA RIGHTS TALK - SEASON 2 EPISODE 14

### #Tech4Rights: The importance of technology and human rights

#### *In conversation with Professor Ann Skelton*

*Africa Rights Talk* is a [Centre for Human Rights](#) podcast series exploring human rights through conversations with academics, practitioners and activists. The Africa Rights Talk series is hosted by [Tatenda Musinahama](#). Each episode offers insight into the African human rights system and the state of human rights in Africa, and globally.

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Tatenda: Welcome to this week's episode of Africa Rights Talk. With me today we have Professor Ann Skelton (AN) from the University of Pretoria, one of the most phenomenal women I have heard about. And I'm so glad to have her voice this week. Professor, Could you please introduce yourself and the nature of the work that you do?

Ann: Thank you Tatenda for that introduction. Yes. I am a specialist in children's rights really that is in some total what most of my career has been about. I started off working in children's rights in South Africa. I worked at Lawyers for Human Rights, and I did a lot of advocacy work around children's rights and law reform and then I joined the Centre for Child Law in around about 2003 and worked there for a number of years where I concentrated more on strategic litigation on children's right. Currently, I am a professor in the Department of Private Law and I hold the UNESCO chair in education law. Education is also very close to my heart and I am currently a member of the UN committee on the rights of the Child.

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Tatenda: Your term as a member of the UN committee on the rights of the child ran from 2017 to 2021. What contributions and achievements have you made during your tenure and what are your hopes for the future?

Ann: Well, it's interesting that as you point out my my term of office, my current one ends early next year and although South Africa has put me forward for another term, the elections that were supposed to happen this year haven't happened because of covid-19 and all of the issues that are going on in the UN at the moment and so there is quite A lot of uncertainty about that. But looking back over the last four years, What I can say is that I was very involved with the drafting of a General Comment on Children in Child Justice Systems. In other words children as offenders; which is actually a super specialisation area of mine. I'm very interested and involved in the issue of children in the criminal justice system and children deprived of their Liberty and this new General Comment came out last year and it encourages states parties to bring their laws in line with this new General Comment and to ensure that deprivation of Liberty is used as a measure of Last Resort-that children are diverted away from the criminal justice system, that minimum age of criminal responsibility is raised to 14. And so those are some of the big things that that I did whilst I was involved in that aspect. I'm also currently chairing the Communications Procedure Working Group. So, you know, the Committee receives individual communications and as well as inquiry requests and so as chair I have to work with other members of the committee who are on the working group. We review all of new cases coming in-and this is happening, of course all the time. It doesn't only happen when we're in session because anybody can bring a communication at any time. So we have to assess whether to register the communications whether they are admissible from the outset and then once we have registered them, we have to determine the cases on the merits to determine if there's been a violation and then to decide on what the remedy for that violation would be-and this is very intensive work requiring, I think, I quite a high level of of legal expertise, but actually not everyone on the committee is a lawyer. So we also often have to spend quite a lot of time sharing with our

colleagues and talking about legal concepts and they might then share with us some of their insights from their disciplines as well.

Tatenda: In your response, you mentioned the study that was done on the Deprivation Of Liberty for Children. I would like to know what are the implications of that study on the rights of the South African Child?

Ann: Yes, actually really a good question. So you're talking about the Global Study on Children deprived of their Liberty, which was a UN mandated study and I was the chair of The Advisory Board of that study. The expert that led the study was Manfred Novak and he visited here last year. So essentially what that study did was that it gathered information from all over the world on the current state of of children deprived of their liberty. And it went beyond children and the criminal justice system because it also included children who are detained for migration reasons, children who are in institutions that are not linked to the criminal justice system and it looked at the impact of all of these things on children and also ways that one can reduce deprivation of Liberty. So it gathered some good good news stories as well and actually interesting enough South Africa came up looking fairly positive on the issue of children deprived of their liberty because South Africa's managed to reduce the number of children in prison quite substantially over the last decade.

However, there are still children in Child and Youth Care Centres that fall under Social Development and I'm pleased to say that there is actually going to be a follow-up study by the Centre for Child Law that I'm involved in as well in which we are hoping to develop a monitoring and oversight mechanism for children in those centres and ultimately to also reduce reliance on this kind of deprivation of Liberty.

Tatenda: As I speak to you, it actually makes a lot of sense why there's so much talk about the kind of person that you are and I'm, like I said at the beginning, so excited to be having this conversation with you. As a woman, I'd just love to know what inspired you to be where you are today. Do you have any stories or

inspiration you'd like to give to women who want to achieve as much as you have?

Ann: One of the first indicators for me that maybe human rights was a good sphere was that I was quite an oppositional teenager. This might also be why in children's rights, I often polarize towards the more complicated teenager type issues. But essentially I think what human rights is, is that it allows people who want to question the rules to do so in a respectable and measured way because we have to then work hard on our reasons why we feel that the way things are should change.

My very first job was as a public prosecutor and I was placed in the court that dealt with child offenders. At this time, of course, I mean, I was newly out of University. It was my first job. I didn't know what I really wanted to do as a career. But what I saw in that Court- how children were treated by the criminal justice system and Tatenda this is long before you were born. It was in 1986-88 that this happened. And it was so it was during the apartheid years. The system was so incredibly harsh. Children as young as 7 could be prosecuted. We had corporal punishment as a as a sentence and it was it was really, you know, rough times. So seeing all of that made me think you know, this has got to change- somebody's got to change it. So in my small way when I left prosecution service, which wasn't too; I only worked there for about 18 months and I joined lawyers for Human Rights and one of the first projects I did at Lawyers for Human Rights was a project around children in the criminal justice system. And this developed into proposals for how the system could change and so on and when our new government came to power and in 1994, I was in my early 30s by that time and was very fortunate to be at the right time and the right place and got involved in law reform efforts because the Mandela government appointed me to lead the committee that drafted the Child Justice Act as we have it today and that was an incredible and exciting opportunity.

So I think, you know, that sometimes it's good timing. I think I've been fortunate in my career in that way, but you have to take the opportunities when they come as they come and you have to work as hard at those opportunities as you

can. So if I have any advice, it is to try to do what you're passionate about and if you're not sure what that is yet- because you're still studying or whatever; get out into the world of work and wait until something starts to really press your buttons and make you feel angry or passionate or frustrated or something that moves you to feel like working all day and half the night is sometimes worth it.

And when you when you've got that kind of passion then it becomes easy because you just want to do it and it creates its own momentum.

Tatenda: My next question actually is about the human rights system. There has been a lot of debate about transforming the human rights system and I just want to know what the implications are of Samoa hosting the The Convention on the Rights of The Child.

Ann: Yes, Okay. So let me just, you know, give a little bit of background to that for the listeners to to get more of a sense of what it's about. So it does fit within this broader question of what's called the 2020 review. The 20/20 review of the Treaty Body Systems looking at at the treaty bodies like the committee on the rights of the child, the Committee on Rights of Persons with Disabilities- all of those different committees at the UN and determining whether they could be streamlined or they could work more efficiently.

This is largely from a state's perspective. So the state's wanted to be less repetitive and less exhausting for them to have to report on all of these obligations. So that's the one thing but there are other aspects of the Treaty Body System that have come under criticism. One of those is that it's very far away from the people. It happens in Geneva, some things happen in New York, but most of the human rights work and the treaty bodies sit in Geneva. Some have said well "shouldn't we rather be taking the treaty bodies closer to the ground, to where people are?" And two people who've really championed that are Frans Viljoen and Kristoff Hans because they proposed many years ago and they're still very actively working and writing and calling for this. And so it happened that the Committee on the Rights of the Child was the first committee to try out a fully fledged, sort of ,regional review. We actually only reviewed four

countries whilst we were there, whereas in a normal session we could probably do 8. But what we did was we went to Samoa which is in the middle of the Pacific and we sat, as we would normally sit in Geneva and various countries, from that region-from the Pacific region came to present their State Party Reports as they would normally have had to come to Geneva and maybe they wouldn't even have come because a lot of those small island nations don't get all the way to Geneva then we do it online but it's much more real when you actually have them in the room and we had this really incredible experience of being there.

Now, Samoa, which was the countries that was hosting it was is was not one of the countries that we reviewed. But whilst we were there we learned a lot about Samoa because every day there were consultations with children who were participating in a kind of parallel conference event and were often in the room as well. Now we do involve children in Geneva and our sessions as well, but it's more difficult because they have to come from wherever/whatever country they come from and then of course there has to be a donor that supports that and obviously only a few of them can come so very rarely do we have a hundred children in the room with us. But in Samoa we actually had that so it was it was an incredible experience-quite unforgettable and it happened in March this year just before all the borders started to close. In fact, our member from Japan wasn't able to come because her country already had cases of Covid and she wasn't permitted to come because of that but I think it was a great opportunity and I do think it's a workable model.

However, having said that we have to be realistic because what Covid and the devastating impact that it's having on states' parties Financial situations will play into what what unfolds in the future and this is a very delicate time for the 2020 review because States' parties are not really in the mood for spending more money on things like treaty body reviews. And so we are quite worried about the impacts that all of these changes happening at once might have, so 2020, on the one hand was a great year because we managed to do this this Regional review which was a great example, but on the other hand, it's a risky year for the whole Treaty Body system, I would say

Tatenda: I'm glad you mentioned the Covid-19 Pandemic because my next question actually speaks to that. So as the pandemic presents so many challenges to the observation and realization of human rights; in what ways does the pandemic pose a threat to the realization and promotion of children's rights?

Ann: Yes, Tatenda such an important issue, because I think we can see already in our own country here in South Africa that children are missing out on their right to education. Some of them are missing out on their right to food. In so many ways the inequalities in our society are so much clearer. Everybody keeps on saying this but it's so true- that if we are going to rely on things like having access to computers and Wi-Fi and data as the basis for whether you can access education or not at the moment that really means that the majority of children in poor countries are not accessing education.

Just think of the backlogs that this is going to create. Think about children in the criminal justice system-child victims who have been waiting for their cases to come up so that they could testify now have to wait much longer. Maybe the DNA results are awaited and now they'll be at the back of the queue of all the testing that has to be done because of Covid-19. Child offenders are waiting for their trials to be dealt with and now there's a big battle developing. Children who are in Residential Care Systems have now been cut off from their families for a longer period of time and may not have been able to go home to visit as they might normally have done and all of this has a big psychological impact on children as well. So I think we don't even know yet. Other issues are because of Covid government stop doing things like inoculations. Normal clinic visits came to a halt, so the health of children in other areas, even though they haven't been so hugely impacted by Covid as an illness, but their General Health will have been impacted in many other ways. So I probably haven't covered everything but I mean those are just some of the big things that jump into my mind immediately and the other big whammy is this; because governments have now spent so much money on combating the virus also, they've gone into lockdown and so the economy has suffered- there's going to



be a lot of austerity budgeting going forward and this is always dangerous for the poor and it's always dangerous for the vulnerable.

So, As a committee, we've already started doing questions for State Party reviews that we've already started including questions about what happened during Covid in the country and what measures going forward our state's going to put in place to try to ensure that the impact that we've seen on children is properly dealt with so that we can start to see a rapid recovery in the coming years.

Tatenda: As you were discussing and talking about the need for children who are prevented from, you know, accessing or being privy to their right to education. I was just thinking to myself that we're now living in the digital age. There has been an increasing need to use different digital platforms to access basic services like classes and just to mention a few. So What mechanisms have been put in place to protect children from online predators.

Ann: Well, certainly, there have been a couple of calls by UNICEF and the Committee on the Rights of the child did Issue a statement relating to covid and that was one of the issues that it talked about. But going forward. I'm pleased to be able to tell you that the New General Comment that the committee is currently working on is on children's rights in the digital age and it couldn't have come at a more relevant time although we'd actually chosen the the subject a year ago. But that is now well underway, the committee has been working on it during lockdown and I would like to invite anyone who's listening to the podcast to please go to the committee's website at OHCHR, CRC. If you just put that into Google it'll take you to the right website and look for the New Draft General Comment on children in the digital age and you are welcome to make comment on the Draft General Comment in the in the coming weeks. So take the opportunity If you have something that you would like to contribute and to those debates because we obviously want a lot of feedback-including from young people themselves who are very much at the Forefront of using digital technology.



I'd like to also mention that the, General Comment tries to strike a good balance between children's autonomy, their right to be able to use digital infrastructure and their freedom to access information and protecting them from unscrupulous people who might be trying to abuse them in all kinds of different ways and also peer-to-peer problems that arise and trying to find a balance as to how to deal with that as well because we don't want to criminalize children who, for example, take naked pictures of themselves and share them. If they share them with each other, that's okay but if one of them shares it with someone else than that is not okay. So it's a very delicate complicated area of the law and I must say it's an area that I think is going to have to demand a lot more of our attention in children's rights going forward.

Tatenda: Thank you, as we come to the end of our podcast. I just like you to give some concluding remarks.

Ann: Well, thanks so much for the opportunity. It's always great to share the contemporary things that are happening in the field and people can follow the work of the Committee on the Rights of the Child by looking regularly at the website and civil society organizations that might want to get involved with the committee's work can also contact an organization called Child Rights Connect which operates in Geneva and is kind of like the NGO arm assistant to the committee. So for example, if you want to get involved in state party alternative reports, they do most of the co-ordinating on that side

Tatenda: Thank you so much Professor for joining us, today. It was lovely having you. Thanks very much